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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DESTRY B. GIRARD,

Plaintiff,

vs.

KILOLO KIJAKAZI<sup>1</sup>,  
Acting Commissioner of Social Security,

Defendant.

CIVIL NO. 3:21-cv-02557-TSH

~~PROPOSED~~ ORDER AND FIRST  
MOTION FOR EXTENSION OF TIME  
TO FILE THE ELECTRONIC  
CERTIFIED ADMINISTRATIVE  
RECORD AND ANSWER TO  
PLAINTIFF'S COMPLAINT

Defendant, Andrew Saul, Commissioner of Social Security (the "Commissioner"), by and through his undersigned attorneys, hereby moves for a first 60-day extension of time to file Defendant's Electronic Certified Administrative Record and Answer to Plaintiff's Complaint. Defendant's Electronic Certified Administrative Record and Answer to Plaintiff's Complaint are due to be filed by July 12, 2021.

In light of the global COVID-19 pandemic, SSA has taken the unprecedented step of suspending

<sup>1</sup> Kilolo Kijakazi became the Acting Commissioner of Social Security on July 9, 2021. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, Kilolo Kijakazi should be substituted, therefore, for Andrew Saul as the defendant in this suit. No further action need be taken to continue this suit by reason of the last sentence of section 205(g) of the Social Security Act, 42 U.S.C. § 405(g).

1 in-office services to the public: <https://www.ssa.gov/coronavirus/>. For purposes of this particular case,  
 2 the public health emergency pandemic has significantly impacted operations in the Social Security  
 3 Administration's Office of Appellate Operations (OAO) in Falls Church, Virginia. That office is  
 4 responsible for physically producing the administrative record that is required to adjudicate the case  
 5 under Sections 205(g) and (h) of the Social Security Act, 42 U.S.C. § 405(g) and (h). *See* SSA Program  
 6 Operations Manual System GN 03106.025.

7 At the end of January, OAO had more than 11,100 new court cases waiting to be processed.  
 8 Although overall the timeframe for delivering an administrative record has improved, the backlog,  
 9 prioritizing aged cases, and contractor capacity continue to cause some delays. The agency now,  
 10 between vendors and in-house efforts, is able to produce more than 700 transcripts on an average work  
 11 week. Prior to the COVID-19 pandemic, the agency averaged 300-400 hearing transcripts per week.

12 Given the volume of pending cases and the continued constraints, Defendant requests a first  
 13 extension in which to respond to the Complaint until September 10, 2021. On July 12, 2021, Defendant  
 14 contacted Plaintiff's counsel about this extension request and Plaintiff's counsel does not oppose the  
 15 extension.

16  
 17 Respectfully submitted,

18 Dated: July 12, 2021

19 DAVID L. ANDERSON  
 United States Attorney

20 By: /s/ Michael K. Marriott  
 21 Special Assistant United States Attorney  
 22 Attorneys for Defendant

23 The motion is GRANTED. All related deadlines are adjusted accordingly.  
 24 **IT IS SO ORDERED.**

25 DATE: July 12, 2021

26   
 27 HON. THOMAS S. HIXSON  
 28 UNITED STATES MAGISTRATE JUDGE